

**COLE SCHOTZ P.C.**  
900 Third Avenue, 16<sup>th</sup> Floor  
New York, New York 10022-4728  
Michael D. Warner, Esq.  
Telephone: (212) 752-8000  
Facsimile: (212) 752-8393  
[mwarner@coleschotz.com](mailto:mwarner@coleschotz.com)

Hearing Date: November 13, 2015 at 12:00 p.m. (ET)  
Response Deadline: November 6, 2015 at 4:00 p.m. (ET)

- and -

**COLE SCHOTZ P.C.**  
Court Plaza North  
25 Main Street  
Hackensack, New Jersey 07610  
Kenneth L. Baum, Esq.  
Telephone: (201) 489-3000  
Facsimile: (201) 525-6327  
[kbaum@coleschotz.com](mailto:kbaum@coleschotz.com)

*Attorneys for:*  
*Highland CDO Opportunity Master Fund, L.P.,*  
*Highland Credit Opportunities CDO, L.P.,*  
*Highland Credit Strategies Fund,*  
*Highland Credit Strategies Master Fund, L.P., and*  
*Highland Credit Offshore Partners, L.P.*

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re  
LEHMAN BROTHERS HOLDINGS INC.,  
*et al.*,  
  
Debtors.

CHAPTER 11

CASE NO. 08-13555 (SCC)

(Jointly Administered)

**HIGHLAND ENTITIES' OBJECTION TO DEBTORS' MOTION TO RENEW  
MOTION TO ALLOW DISCLOSURE OF DERIVATIVES QUESTIONNAIRES  
PURSUANT TO SECTION 107(a) OF THE BANKRUPTCY CODE  
(Related Docket No.: 51312)**

Highland CDO Opportunities Master Fund, L.P., Highland Credit Opportunities CDO, L.P., Highland Credit Strategies Fund, Highland Credit Strategies Master Fund, L.P., and Highland Credit Offshore Partners, L.P. (collectively, the "Highland Entities"), by and through their counsel, Cole Schotz P.C., hereby object to the *Debtors' Motion to Renew Motion to Allow Disclosure of Derivatives Questionnaires Pursuant to Section 107(a) of the*

*Bankruptcy Code* (the “Motion to Renew”) [Docket No. 51312] and in support thereof state as follows:

### **BACKGROUND**

1. On March 19, 2015, the Debtors and the Official Committee of Unsecured Creditors filed their *Motion to Allow Disclosure of the Derivatives Questionnaires Pursuant to Section 107(a) of the Bankruptcy Code* (the “Motion to Disclose”) [Docket No. 48939], pursuant to which they sought permission to allow disclosure of the Derivatives Questionnaires (as that term is defined in the Motion to Disclose).

2. Numerous parties, including the Highland Entities, filed objections to the Motion to Disclose. In their *Joinder of Highland Entities to Objection of National Australia Bank Limited to Debtors’ Motion to Allow Disclosure of the Derivative Questionnaires Pursuant to Section 107(a) of the Bankruptcy Code* (the “Initial Highland Objection”) [Docket No. 49057],<sup>1</sup> the Highland Entities specifically joined in the objection filed by National Australia Bank Limited to the Motion to Disclose.

3. The Debtors have now filed the Motion to Renew, in which they again seek authority to disclose the Derivatives Questionnaires, in connection with any parties with whom they did not reach agreement on the terms of proposed disclosure in furtherance of the Motion to Disclose, to third-party litigants, free of any restrictions. The Highland Entities object to the Motion to Renew.

4. In assembling the Derivatives Questionnaires, the Highland Entities specifically relied on the Debtors’ assurances of confidentiality and the protections afforded under the *Order Pursuant to Section 502(b)(9) of the Bankruptcy Code and Bankruptcy Rule 3003(c)(3)*

---

<sup>1</sup> Unless otherwise noted, the capitalized terms herein shall have the definitions ascribed to them in the Initial Highland Objection.

*Establishing the Deadline for Filing Proofs of Claim, Approving the Form and Manner of Notice Thereof and Approving the Proof of Claim Form* (the “Bar Date Order”) [Docket No. 4271].

That Order provides, at page 9:

ORDERED that the website <http://www.lehman-claims.com> in respect of Derivative Contracts and Guarantees will not be accessible on the website other than by the party that submitted such information, the Debtors, the Creditors’ Committee and their respective advisors and counsel ....

5. Acting in compliance with the terms of the Bar Date Order, the Highland Entities submitted significant information related to their Derivatives Questionnaires to the Debtors in order to preserve and seek allowance of the Highland Entities’ claims related thereto. In so doing, the Highland Entities relied on the provisions of the Bar Date Order specifying that any materials provided would remain confidential. If the Highland Entities had known that any of the information they each submitted as part of the claims allowance process could have been released for public consumption, they would have tailored the information differently or not provided certain confidential information.

6. The confidential and sensitive information contained in the Derivatives Questionnaires clearly falls within the exception to disclosure under Section 107(b)(1) of the Bankruptcy Code, and the potential harm to the Highland Entities in compelling disclosure of such information substantially outweighs any possible disadvantage the Debtors may suffer in third-party litigation. Accordingly, the Motion to Renew should be denied. To the extent the motion is not denied, however, the Highland Entities should be afforded the opportunity, in advance of any disclosure by the Debtors, to (i) know what will specifically be disclosed and to whom and (ii) redact any information by agreement with the Debtors or seek such redaction by the Court.

WHEREFORE, the Highland Entities respectfully request that the Court deny the Motion to Renew and order relief consistent with the above arguments.

Dated: New York, New York  
November 6, 2015

Respectfully submitted,

COLE SCHOTZ P.C.

By: /s/ Michael D. Warner  
Michael D. Warner  
900 Third Avenue, 16<sup>th</sup> Floor  
New York, New York 10022-4728  
Telephone: (212) 752-8000  
Facsimile: (212) 752-8393  
[mwarner@coleschotz.com](mailto:mwarner@coleschotz.com)

- and -

Kenneth L. Baum  
Court Plaza North  
25 Main Street  
Hackensack, New Jersey 07601  
Telephone: (201) 489-3000  
Facsimile: (201) 525-6327  
[kbaum@coleschotz.com](mailto:kbaum@coleschotz.com)

*Attorneys for:*  
*Highland CDO Opportunity Master Fund, L.P.,*  
*Highland Credit Opportunities CDO, L.P., Highland Credit*  
*Strategies Fund, Highland Credit Strategies Master Fund,*  
*L.P., and Highland Credit Offshore Partners, L.P.*